

Attorney Docket No. 00-VE22.07A (RFG: 65632-0107)

6,243,373 to Turock; (ii) U.S. Patent No. 6,298,057 to Guy; (iii) U.S. Patent No. 6,304,567 to Rosenberg; (iv) Yang (FRC 1798 – “INETPhone: Telephone Services and Servers on Internet”); and (v) U.S. Patent 5,483,587 to Hogan. Applicant respectfully traverses the Examiner’s rejections and requests further consideration of the pending claims in light of the following comments.

A. Examiner’s Paragraph 4: Claims 1-7, 17-19 and 35-37.

The Examiner has rejected pending claims 1-7, 17-19 and 35-37 as being obvious under 35 U.S.C. §103 in light of Turock, as modified by the teachings of Guy.

1. No Motivation To Modify The Turock System With Guy

Applicant respectfully submits that the Examiner has not identified sufficient motivation to modify the system of Turock with the teachings of Guy. Turock discloses a system whereby a first party can use a conventional telephone to call a second party, wherein the audio information conveyed between the two parties is transferred over the Internet. The Examiner concedes that Turock does not disclose the claimed steps of “allocating a resource on the wide area packet switched network sufficient to provide a guaranteed level of service through the wide area packet switched network; and selectively establishing a communication link, via the resource at least the guaranteed level of service...” *See*, Office Action, p.4. The Examiner asserts that it would have been obvious to modify Turock’s system so as to include the RSVP methodology disclosed in Guy for reserving a particular amount of bandwidth over the Internet. *See*, Guy, 11:45-64. As for the alleged motivation for such a combination, the Examiner states that “Turock suggests that a voice quality must takes [sic] into consideration by applying a number of different techniques to improve a voice quality between the servers.” *See*, Office Action, p.5. However, Turock does not make any suggestion or

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implication that a certain minimum guaranteed level of service through the Internet is required or that such a guaranteed level of service should be accomplished by "allocating a resource on the wide area packet switched network sufficient to provide [the] guaranteed level of service..." To the contrary, Turock actually teaches away from this concept. Turock teaches that any bandwidth limitation over the Internet should be overcome using data compression so as to reduce the necessary bandwidth for transmitting the same amount of data. *See*, Turock, 10:28-37. Accordingly, a person skilled in the art reading Turock would have no reason to modify its system to allocate a resource over the wide area network sufficient to guarantee a particular service level, since Turock teaches that voice quality issues can be handled using data compression techniques instead.

For at least this reason, Applicant submits that the Examiner has not identified sufficient motivation to modify the Turock system using the teachings of Guy, and, consequently, Applicant submits that pending claims 1-7, 17-19 and 35-37 are allowable over the cited prior art.

2. No "Predetermined Communication Path": Claims 2-4, 7, 17, 19, 35-37

Claims 2-4, 17, 19, and 35-37 all recite that data packets are sent between a server associated with a calling party and a server associated with a called party via a "predetermined communication path." (emphasis added). Specifically, the communication path is determined prior to the initiation of a call by a calling party. For example, the specification of the pending application describes an embodiment of the claimed "predetermined communication path" – referred to therein as a "dedicated virtual path" – as being established by contracting with the Internet service provider controlling each router in the desired dedicated virtual path to program their router(s) to transport certain data packets along a predetermined path. *See*, Specification, pp. 32-35. Thus, whenever a given calling

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party places a call to a given called party, the data packets transferred between the two parties will travel the same predetermined path through the Internet. Moreover, the predetermined communication path is the same from call to call between the same telephony servers. This method of communication over the Internet is different from the standard method of communication, wherein the data packets that constitute a single mess may each take different paths through the Internet before they are re-assembled by the destination computer.

Without citing to any particular portion of the disclosure, the Examiner seems to suggest that Turock discloses a "predetermined path" through the Internet as a result of its use of a Least Cost Routing (LCR) module. *See*, Turock, 9:26-54. Applicant respectfully submits that the LCR module in Turock does not provide a "predetermined path." Rather, the LCR module identifies the address of one or more optimal receiving ITS servers for establishing the communication link at the called party's end. The LCR module does not specify the particular path through the Internet that the data packets will take to travel between the calling party's ITS server and the called party's ITS server. Presumably, the data packets travel over the Internet in Turcock in a conventional manner, i.e., through a variety of different communication paths between the two ITS servers.

In similar manner, Guy does not disclose the concept of a calling party communicating with a called party over a predetermined communication path through a wide area packet switched network. In fact, while the RSVP system in Guy can be used for "reserv[ing] bandwidth across the WAN 104" in response to a request from the priority management unit 416 (*See*, Guy, 11:45-63), Guy is devoid of any suggestion that the communication path between the calling party and the called party is predetermined (i.e., determined prior to the call being initiated).

For at least this additional reason, pending claims 2-4, 7, 17, 19, 35-37 are allowable over the cited prior art.

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3. No "Routing and Administration Server": Claims 2-4, 37

Claims 2-4 and 37 all recite a "routing and administration server having said routing and administration database" and that the routing and administration server provides a routing response "via the wide area packet switched network..." Thus, claims 2-4 and 37 recite that the routing and administration database is maintained on a server located at a node on the wide area network that is different from the separately-recited "first telephony server." The Examiner identifies the Least-Cost Routing (LCR) module of Turock as the "routing and administration database." *See*, Office Action, pp. 3-4. However, Turock's LCR module resides in the telephony server ITS node 206, which corresponds to the first telephony server recited in claims 2-4 and 37. *See*, e.g., Turock 6:28-43; *Compare* ITS node 206 in Figures 2 and 5. Therefore, Turock's LCR module cannot be said to be a routing and administration "server" that is separate from the "first telephony server" (i.e., ITS node 206). Moreover, because Turock's LCR module resides in the ITS node 206, it is impossible for the first telephony server to receive a routing response from the LCR "via the wide area packet switched network", as claimed.

These are additional reasons why claims 2-4 and 37 are allowable over the cited prior art references.

4. Claim 5: No Prescribed Level of Service Provided By A Telephony Server

In addition to the limitations of claim 1, claim 5 further recites a first telephony server having a routing and administration data base from which a guaranteed level of service is obtained. That is, a guaranteed level of service parameter corresponding to a calling party is stored in the routing and administration data base on the first telephony server, and the stored guaranteed level of service parameter is retrieved from the database when a call is initiated.

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The Examiner does not specifically identify where this concept is allegedly disclosed in any of the cited prior art. Applicant is unable to locate any teaching in the cited art that would suggest or teach the concept of retrieving a guaranteed level of service parameter associated with the calling party from a routing and administration data base.

This is an additional reason why claim 5 is allowable over the cited prior art.

B. Examiner's Paragraph 5: Claims 8-10 and 12-16.

The Examiner has rejected claims 8-10 and 12-16 under 35 U.S.C. §103(a) in light of Turock, as modified by Guy and Rosenberg. The Examiner concedes that neither Turock or Guy disclose a session ID and channel ID. The Examiner relies on Rosenberg to allegedly cure that deficiency.

1. Claims 8-10, 12: No "Predetermined Communication Path"

At the outset, claims 8-10 and 12 all depend from claim 7, which recites a "predetermined communication path." As discussed above, none of the cited prior art references disclose a "predetermined communication path", i.e., a communication path that is determined prior to the initiation of the call. Thus, claims 8-10 and 12 are allowable for at least this reason.

2. Claims 8-10 and 12: No "Session Identifier"

While Rosenberg references a "channel identifier" (See, Rosenberg, 5:54-6:31), Rosenberg does not disclose a "session identifier identifying a call attempt between the calling party and the called party", as recited in claim 8. The "channel identifier" in Rosenberg identifies a particular communication channel, but does not correspond necessarily to a particular call attempt, as recited in claim 8. Further, Rosenberg does not

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suggest sending a session identifier in a data packet to a destination telephony server, as recited in claim 8.

These are additional reasons why claim 8 and claims 9-10 and 12 (which all depend from claim 8) should be allowed over the cited prior art.

3. Claim 12

The Examiner has not identified where in the cited prior art references the steps of claim 12 are allegedly disclosed, and Applicant is unable to locate any disclosure of these steps in the cited prior art. Specifically, the cited prior art does not disclose sensing the condition of the calling party at the first central office and sending a message indicating the condition of the calling party to the first telephony server. The cited prior art does not disclose transmitting a signaling data packet from the first telephony server to the second telephony server a signaling data packet having the session identifier and the condition of the calling party.

Applicant submits that claim 12 is allowable over the cited prior art for these additional reasons.

4. Claims 13-16: No "...Assigned Trunk Line Based On The Identifier..."

Claims 13-16 are dependent claims that, among other things, recite the steps of sending "communication samples" from the called party to the calling party via the wide area network and "forwarding the received communication samples to the first central office on an assigned trunk line based on the identifier." (emphasis added). The Examiner has not pointed to any particular place in the cited prior art references that discloses the sending of "communication samples" and the forwarding of those samples to the first central office on "an assigned trunk line based on the identifier", and Applicant has been unable to locate any

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such disclosure. Therefore, Applicant submits that these are additional reasons why claims 13-16 should be allowed over the cited prior art references.

C. Examiner's ¶ 6: Claims 21-22: No "Predetermined Communication Path"

The Examiner has rejected claims 21-22 under 35 U.S.C. §103(a) in light of Yang, as modified by Hogan, Guy and Rosenberg. Claims 21 and 22 both recite a "predetermined communication path", which, as discussed above (and in Applicant's Appeal Brief, filed January 23, 2003), is not disclosed in any of the cited prior art references. For at least this reason, claims 21-22 are allowable over the cited prior art.

D. Examiner's ¶¶7-9: Claims 30-34.

The Examiner has rejected claim 30 under 35 U.S.C. 103(a) in light of Turock, as modified by Rosenberg. The Examiner has rejected claims 31-33 under §103 in light of Turock, as modified by Rosenberg and Guy. Finally, the Examiner has rejected claim 34 under §103 in light of Turock, as modified by Rosenberg, Guy and Hogan.

Each of the claims 30-34 recited the step of "generating a session identifier identifying a call attempt between the calling party and the called party" and transmitting that session identifier between the two telephony servers. Acknowledging that none of the other cited prior art references disclose the use of a "session identifier", the Examiner relies upon Rosenberg to cure this deficiency in those other prior art references. But the Examiner's reliance on Rosenberg to cure this deficiency is misplaced. As discussed above, Rosenberg discloses the use of a "channel ID", which is associated with a particular communication channel, but Rosenberg does not disclose the use of a "session identifier", as set forth in claim 30, which is associated with a particular communication session. Therefore, claims 30-34 should be allowed over the cited prior art.

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CONCLUSION

Therefore, Applicant submits that all pending claims are distinguished over the cited prior art and are in condition for allowance. If the Examiner has any questions or issues relating to Applicant's response, he is encouraged to telephone the undersigned representative.

It is believed that any additional fees due with respect to this paper have already been identified in any transmittal accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge deposit account number 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

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